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PART V

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

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INTERIM CHARTER

Request for Comments on Interim Charter and on Criteria for Permit Application Evaluation

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

INTERIM CHARTER

Requests for Comments on Interim Charter and on Criteria for Permit Application Evaluation

Notice is hereby given of the Interim Charter of the Endangered Species Scientific Authority (ESSA). Comment is solicited on all aspects of the Interim Charter and on species-by-species criteria for permit application evaluation, as well as on biological and trade information in support of such criteria.

The ESSA was established on April 13, 1976, by Executive Order 11911, 41 FR 15683 (1976). It is composed of the following representatives of six Federal agencies and the Smithsonian Institution:

Member and Department or Agency

Mr. John Spinks, Chairman, Department of the Interior
Dr. Robert L. Williamson, Department of Agriculture
Dr. R. V. Miller, Department of Commerce
Dr. Joe R. Held, Department of Health, Education, and Welfare
Mr. William Sievers, National Science Foundation
Dr. Lee M. Talbot, Council on Environmental Quality
Dr. David Challinor, Smithsonian Institution.

The ESSA was created to insure the scientific soundness of governmental decisions concerning trade in endangered species of animals and plants. Its primary responsibility is as the United States Scientific Authority for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention), TIAS 8249 (1973), which became effective July 1, 1975. Department of the Interior regulations were promulgated to implement the Convention on Febraury 22, 1977, 42 FR 10462–10488, and became generaly effective May 23, 1977.

The preamble to the Convention regulations describes the Convention and its history as well as the regulations. In brief, the Convention protects three categories of species. First are those species of animals and plants that are threatened with extinction and which are or may be affected by trade. These species are listed in "Appendix I" of the Convention, and trade in them may only be authorized in exceptional circumstances. Second are those species not necessarily now threatened with extinction but which may become so unless trade in them is subject to strict regulation. These species are listed in "Appendix II" of the Convention, along with any othre species whose similarity to truly threatened or potentially threatened species requires that they be regulated because of the risk of confusion. Third are those species that any Party to the Convention conserves within its jurisdiction and has identified as needing the cooperation of other parties to control trade. These species are listed in "Appendix III" of the Convention.

The Convention and its implementing regulations control trade in those species listed in the Appendices, and a complete list of these species may be found in the February 22, 1977 Convention regulations 42 FR 10469–10488. Except for several important exceptions spelled out in the Convention and regulations, permits required for trade in Appendix I and II species may not be issued by the Federal Wildlife Permit Office until it has determined that certain requirements have been met and, in addition, the ESSA has advised it of certain findings: (1) Export permits may not be issued for Appendix I or II specimens unless the ESSA finds that the export will not be detrimental to the survival of the species; (2) Permits may not be issued to introduce from the sea Appendix I or II specimens unless the ESSA finds such action will not be detrimental to the survival of the species, and, for Appendix I, that the recipient is suitably equipped to house and care for living specimens; (3) Permits may not be issued to import Appendix I specimens from other countries, unless the ESSA finds that the import will be for purposes which are not detrimental to the species involved and that the recipient of a living specimen is suitably equipped to house and care for it.

The Interim Charter published with this notice states in very general terms the factors that may be considered by the ESSA to make these findings, and the ESSA would appreciate comments on these factors as well as on every other provision of the Interim Charter. However, the ESSA also intends to establish particular criteria for each listed species as to what trade activity will not be detrimental to survival and, for Appendix I, as to what constitutes suitable housing and care. Although recognizing the difficulty of such an endeavor, and the probable need for frequent amendment of such criteria, the ESSA believes that such criteria are essential if the permit applicant and the general public are to understand how applications are evaluated, and are to know how they may correct deficiences in that process. To the extent possible, the ESSA will develop such criteria concurrently with evaluating permit applications, seeking to establish eventually refined and biologically sound criteria from which findings on individual applications follow with the greatest possible certainty.

Establishment of truely sound criteria for findings on permit applications will require more information on many Convention species than is currently available. Therefore, the ESSA requests not only recommended criteria for its findings on permit applications, but also biological and trade information in support of those recommendations, as well as any other information on the species that may be relevant to the responsibilities of the ESSA.

Although comments on species will be considered in any form, review will be facilitated if comments approximate the following form, in whole or in part:

1. The common and scientific name of the Appendix I or II species concerned.
2. Summary of life history in the wild, with trends and references, including:
   (a) Distribution and abundance.
   (b) Reproductive rate.
   (c) Death rate.
   (d) Age at first reproduction.
   (e) Number of offspring produced.
   (f) Social behavior relevant to endangerment.
   (g) Habitat and particular ecological requirements, including as appropriate: space, food, water, light, minerals, cover or shelter, and sites for breeding, reproduction, and rearing of offspring.
3. Causes of endangerment other than trade, including:
   (a) Habitat destruction or modification.
   (b) Taking not involving trade.
   (c) Pollution.
   (d) Competition, predation, or disease.
   (e) Other natural or man-made factors.
4. Trade status with trends and references, including purposes of trade and number of individuals, both for the U.S. and worldwide, with discussion including reference to regulatory mechanisms.
5. Housing and care requirements, with any references, including a life history analysis for captivity.
6. Individuals or organizations with expertise on the species.
7. If the species occurs in the wild within the jurisdiction of the United States or occurs on the seas, recommended criteria and supporting grounds for determining whether export or introduction from the sea will not be detrimental to the survival of the species, including:
   (a) The allowable volume of export, or introduction from the sea, stated as a rate and for different populations and for different purposes, if such exist. For some species the rate might be expressed as number of specimens per year per State. Those commenting should distinguish purposes that tend to reduce demand on wild populations (e.g. development of captive self-sustaining populations) from those purposes that may leave demand unchanged or may increase demand.
   (b) Any conditions that should be attached to permit issuance, for example conditions concerning method, time, or place of taking, if considered necessary for a finding of no detriment to survival.
8. If the species is on Appendix I, recommended criteria and supporting grounds for determining whether importation from other countries will be for purposes not detrimental to the survival of the species, including:
   (a) A statement of the allowable volume of import, stated as a rate and for different populations, different countries and different purposes, if considered necessary and appropriate as a check on the finding of no detriment to survival that is required of exporting countries.
   (b) A statement distinguishing purposes of import that may be detrimental to the survival of the species from those purposes that will not be detrimental.
   (c) Any conditions of permit issuance that will ensure an appropriate purposes.
9. If the species is on Appendix I, recommended criteria and supporting grounds for determining if recipients are suitably equipped to house and care for living specimens imported from other countries or introduced from the sea. Criteria for particular species should, if possible, follow the format of Article IV D. of the Interim Charter, but should add or delete categories as appropriate for particular species. Comments should be as specific as possible as to what is, suitable, and should be closely tailored to the particular requirements of the specimens

in question. Comment should also include any conditions of permit issuance that will help to ensure that housing and care is suitable.

Comments on the Interim Charter should be made within 60 days of the date this notice is published, so that a Final Charter may be agreed upon without excessive delay. Information on Convention species and recommended criteria for findings on permit applications will be considered on a continuing basis. The ESSA stresses that the value of comment on particular species turns heavily on supporting documentation and specificity. Whereas one small bit of well documented information may be decisive in deliberations of the ESSA, broad but unsubstantiated generalizations are unlikely to be so. The ESSA understands that preparation of such comments is time consuming, and emphasizes that any information on Convention species will be appreciated and will enhance the ESSA's ability to make sound findings.

All comments should be submitted to the Office of the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240. The ESSA will attempt to acknowledge all comments, but may be unable to respond substantively. However, all comments on the Interim Charter will be considered in development of a Final Charter, and all submittals on particular species will be considered in developing criteria to evaluate permit applications.

Dated: July 6, 1976.

WILLIAM Y. BROWN,
Executive Secretary.

The text of the Interim Charter is as follows:

UNITED STATES ENDANGERED SPECIES SCIENTIFIC AUTHORITY

INTERIM CHARTER

I. Majority voting.
II. Agency representatives and alternates.
III. Meetings.
IV. Convention permits and certificates.
V. Amendments to convention appendices.
VI. Amendments to convention text and regulations.
VII. International and interstate shipment of fauna and flora.
VIII. Confiscated specimens.
IX. Outside opinions.
X. Authority and duties of the chairperson.
XI. Authority and duties of the executive secretary.

I. MAJORITY VOTING

The Endangered Species Scientific Authority (ESSA) shall agree to any action, including amendment of this Charter, by majority vote of a quorum consisting of at least five of the seven members or their alternates.

II. AGENCY REPRESENTATIVES AND ALTERNATES

Each Federal agency represented on the ESSA and the Smithsonian Institution shall provide the Executive Secretary with the name, position, address, and phone number of its representative, and of an alternate.

III. MEETINGS

The ESSA shall meet the first Tuesday of each month unless otherwise agreed.

IV. CONVENTION PERMITS AND CERTIFICATES

A. Appendix I

1. Exportation of specimens. The ESSA shall advise the Management Authority whether the export of any Appendix I specimen will not be detrimental to the survival of that species.

2. Importation of specimens. (a) The ESSA shall advise the Management Authority whether the import of any Appendix I specimen will be for purposes that are not detrimental to the survival of that species.

(b) The ESSA shall advise the Management Authority whether it is satisfied that the proposed recipient of any living Appendix I specimen is suitably equipped to house and care for the specimen.

3. Introduction of specimens from the sea. (a) The ESSA shall advise the Management Authority whether the introduction from the sea of any Appendix I specimen will not be detrimental to the survival of that species.

(b) The ESSA shall advise the Management Authority whether it is satisfied that the proposed recipient of any living Appendix I specimen is suitably equipped to house and care for the specimen.

B. Appendix II

1. Exportation of specimens. (a) The ESSA shall advise the Management Authority whether the export of any Appendix II specimen will not be detrimental to the survival of that species.

(b) The ESSA shall monitor both the export permits granted by the United States for specimens of species included in Appendix II and the actual exports of such specimens. Whenever the ESSA determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the ESSA shall advise the Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

2. Introduction of specimens from the sea. The ESSA shall advise the Management Authority whether introduction from the sea of any Appendix II specimen will not be detrimental to the survival of that species. Such advisement may, when appropriate, apply to total number of specimens to be introduced over periods not exceeding one year.

C. Actions not detrimental to the survival of a species

In determining whether an export, purpose of import, or introduction from the sea will not be detrimental to the survival of a species, the ESSA may consider the following factors, among others:

1. Whether similar export, import, or introduction from the sea has occurred in the past, and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem.

2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export, import, or introduction from the sea will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

3. Whether such export, import, or introduction from the sea is expected to increase, decrease, or remain constant in frequency.

D. Suitable housing and care

In determining whether the proposed recipient of a living Appendix I specimen is suitably equipped to house and care for it, the ESSA may, as appropriate, consider the following factors among others:

1. Housing. (a) Whether facilities are of a structure and state of repair adequate to contain and unlikely to injure the specimen.

(b) Whether facilities provide space essential to health and well-being.

(c) Whether facilities are served by an adequate power source.

(d) Whether facilities are properly ventilated and lighted and whether the temperature may be kept within the normal range of the specimen's requirements.

(e) Whether adequate facilities are available for the disposal of water and for cleaning.

(f) Whether food and other materials used in the care of the specimen will be stored and maintained in facilities that keep the food in a wholesome condition.

2. Care. (a) Whether ventilation, lighting, and temperature will be adequately monitored and controlled.

(b) Whether water, food, and other nutritional requirements will be supplied that are adequate in kind, amount, quality and availability.

(c) Whether waste will be removed expeditiously, and a high level of sanitation maintained generally.

(d) Whether persons caring for the specimens have experience with the same or similar species.

(e) Whether the specimens will be sheltered from circumstances adverse to their well-being, and will be properly cared for if ill or injured.

V. AMENDMENTS TO CONVENTION APPENDICES

The ESSA shall review the species of the world on a continuing basis to determine whether they should be aded to or deleted from the Convention Appendices, and shall advise the Management Authority of any recommended amendments.

A. Appendices I and II

Additions and deletions with respect to Appendices I and II will be recomended consistent with criteria established by the Parties to the Convention.

B. Appendix III

Additions to Appendix III will be recommended if a species on none of the Appendices is subject to protective regulation within the jurisdiction of the United States and is found in need of the cooperation of other Convention parties in the control of trade. Deletion will be recommended if a species is found to no longer meet the criteria above.

VI. AMENDMENTS TO CONVENTION TEXT AND REGULATIONS

As necessary and appropriate, the ESSA shall advise the Management Authority of any amendments to the Convention text or implementing regulations that, in its opinion, will further the purposes of the Convention.

VII. INTERNATIONAL AND INTERSTATE SHIPMENT OF FAUNA AND FLORA

The ESSA shall advise the Secretary of the Interior in developing and implementing a system to standardize and simplify the requirements, procedures, and other activities

related to the issuance of permits for the international and interstate shipment of fauna and flora, including, as appropriate, the parts or products of such fauna and flora.

VIII. CONFISCATED SPECIMENS

As necessary and appropriate, the ESSA shall advise the Management Authority on the proper disposition of specimens confiscated because of trade in violation of the Convention.

IX. OUTSIDE OPINIONS

In the discharge of its responsibilities the ESSA shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and non-governmental scientific communities, State agencies responsible for the conservation of wild fauna and flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community, and others as appropriate. Such coordination shall include but not be limited to:

A. Outside review of the ESSA Charter.

B. Outside comment on implementation of the Charter, including criteria for ESSA findings upon permit applications.

C. Outside review of ESSA recommendations on amendments to the Convention Appendices and Text.

X. AUTHORITY AND DUTIES OF THE CHAIRPERSON

The Chairperson of the ESSA shall:

A. Convene and preside at all meetings of the ESSA.

B. Represent the ESSA at plenary meetings of the Convention.

C. Act on behalf of the ESSA pursuant to any authority it may grant.

D. Supervise the activities of the Executive Secretary.

XI. AUTHORITY AND DUTIES OF THE EXECUTIVE SECRETARY

The Executive Secretary of the ESSA shall:

A. Arrange for and organize the meetings of the ESSA.

B. Ensure that all available relevant information required for action under Articles IV through VIII of this Charter is put before the ESSA in a timely fashion.

C. Ensure that the outside opinion provisions of Article IX are pursued vigorously, including personal representation of the ESSA before interested organizations and publication of notices in the FEDERAL REGISTER.

D. Maintain the records of the ESSA.

E. Act on behalf of the ESSA pursuant to any authority it may grant.

F. Arrange the administrative support for the ESSA.

G. Supervise the staff of the ESSA.

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